

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

BRAD BORUK,
PLAINTIFF,

v.

DEBT RECOVERY SOLUTIONS, LLC,
DEFENDANTS

Case No. 4:13-cv-486

COMPLAINT AND JURY DEMAND

JURISDICTION

1. Jurisdiction of this Court arises under 28 U.S.C. § 1331 and 15 U.S.C. § 1692k(d).
2. Supplemental Jurisdiction exists pursuant to 28 U.S.C. § 1367.
3. This action arises out of the Defendants' violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692, et seq. (hereinafter referred to as "FDCPA").

VENUE

4. Venue is proper in this Judicial District pursuant to 28 U.S.C. § 1391(b), in that the Defendant transacts business in this District and a substantial portion of the acts giving rise to this action occurred in this District.
5. The Plaintiff resides in this Judicial District.

PARTIES

6. The Plaintiff, Brad Boruk ("Plaintiff"), is an adult individual residing in Collin County, Texas, and is a "consumer" as the term is defined by 15 U.S.C. § 1692a(3).

7. Defendant Debt Recovery Solutions, LLC ("Defendant DRS") has its principal place of business in Westbury, New York.
8. Defendant DRS is a "debt collector" as that term is defined by 15 U.S.C. § 1692a(6).
9. The principal purpose of Defendant DRS is the collection of debts using the mails and telephone and other means.
10. Defendant DRS regularly collects or attempts to collect, directly or indirectly, debts owed or due or asserted to be owed or due another that arose out of transactions in which the money, property or services which are the subject of the transactions are primarily for personal, family or household purposes.
11. Defendant DRS is not registered to do business in the state of Texas and has no registered agent in Texas.

FACTUAL ALLEGATIONS

12. At some time in the past, Plaintiff allegedly incurred a financial obligation, which was, upon information and belief, sold to a debt buyer. The alleged financial obligation was primarily for personal, family or household purposes, namely an amount due and owing on a personal account (hereinafter the "Account").
13. The Account constitutes a "debt" as that term is defined by 15 U.S.C. § 1692a(5).
14. The debt buyer tried to recover the unpaid portion of the Account by placing with or otherwise transferring the Account to Defendant DRS for collection.
15. Plaintiff disputes the Account.
16. Plaintiff requests that all defendants cease all further communication on the Account.

17. Defendant DRS's collector(s) were employee(s) of Defendant DRS at all times mentioned herein.
18. Defendant DRS acted at all times mentioned herein through its employee(s).
19. Defendant DRS acted at all times mentioned herein as an agent for the debt buyer.
20. On or about July 10, 2013, Defendant DRS caused a letter to be mailed to 2625 R Ave., Plano, TX 75074. This letter (hereinafter "the July 10, 2013 letter") contained information about the debt allegedly owed by Plaintiff and indicated to the reader that the debt was delinquent, past due, unpaid and in collection.
21. Plaintiff does not and never has lived at 2625 R Ave. in Plano, Texas.
22. Plaintiff has never indicated to any creditor or debt collector that mail should be mailed to him at 2625 R Ave. in Plano, TX.
23. By mailing the July 10, 2013 letter to 2625 R Ave., Plano, TX 75074, Defendant DRS disclosed information about Plaintiff's debt to a third party.
24. The third party that received the July 10, 2013 letter read the letter.
25. The third party that received the July 10, 2013 letter did not previously know that Plaintiff was in default on the account in question.
26. Defendant DRS's purpose for mailing the July 10, 2013 letter to Plaintiff was to attempt to collect the Account.
27. The July 10, 2013 letter constituted a "communication" as defined by FDCPA § 1692a(2).

28. The only reason that Defendant DRS and/or representative(s), employee(s) and/or agent(s) of Defendant DRS sent the July 10, 2013 letter to Plaintiff was to attempt to collect the Account.

29. The only reason that Defendant DRS and/or representative(s), employee(s) and/or agent(s) of Defendant DRS sent the July 10, 2013 letter to Plaintiff was to attempt to collect the Account.

30. The only reason that Defendant DRS and/or representative(s), employee(s) and/or agent(s) of Defendant DRS sent the July 10, 2013 letter to Plaintiff was to attempt to collect the Account.

31. The communications and actions of Defendant DRS and its representative(s), employee(s) and/or agent(s) constitute illegal communication with a third party in connection with debt collection and violate 15 U.S.C. § 1692c(b).

32. The actions of Defendant DRS and its representative(s), employee(s) and/or agent(s) were done knowingly and willfully.

33. As a consequence of Defendant DRS's collection activities and communication(s), Plaintiff seeks damages pursuant to 15 U.S.C. § 1692k(a).

RESPONDEAT SUPERIOR

34. The representative(s) and/or collector(s) at the Defendant were employee(s) of the Defendant at all times mentioned herein.

35. The representative(s) and/or collector(s) at the Defendant were agent(s) of the Defendant at all times mentioned herein.

36. The representative(s) and/or collector(s) at the Defendant were acting within the course of their employment at all times mentioned herein.
37. The representative(s) and/or collector(s) at the Defendant were acting within the scope of their employment at all times mentioned herein.
38. The representative(s) and/or collector(s) at the Defendant were under the direct supervision of the Defendant at all times mentioned herein.
39. The representative(s) and/or collector(s) at the Defendant were under the direct control of the Defendant at all times mentioned herein.
40. The actions of the representative(s) and/or collector(s) at the Defendant are imputed to their employer, the Defendant.

41. As a direct and proximate result of the aforesaid actions, Plaintiff seeks damages pursuant to FDCPA 1692k(a) and Tex. Fin. Code § 392.403.

COUNT I: VIOLATIONS OF THE FDCPA 15 U.S.C. § 1692, et seq.

42. The previous paragraphs are incorporated into this Count as if set forth in full.
43. The act(s) and omission(s) of the Defendant and its representative(s), employee(s) and/or agent(s) violated 15 U.S.C. § 1692c(b).
44. Pursuant to 15 U.S.C. § 1692k Plaintiff seeks damages, reasonable attorney's fees and costs.

JURY TRIAL DEMAND

45. Plaintiff is entitled to and hereby demands a trial by jury.

DEMAND FOR RELIEF

WHEREFORE, the Plaintiff requests that the Court grant the following:

46. Judgment in favor of the Plaintiff and against the Defendant.
47. Actual damages pursuant to 15 U.S.C. 1692k(a)(1).
48. Statutory damages in the amount of \$1,000.00 pursuant to 15 U.S.C. § 1692k(a)(2).
49. Reasonable attorneys fees and costs pursuant to 15 U.S.C. § 1692k(a)(3).
50. Such other and further relief as the Court deems just and proper.

Respectfully submitted,

/s/ Jeffrey D. Wood
Jeffrey D. Wood, Esq.
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FAX: 615-807-3344
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Attorney for Plaintiff

Of Counsel to:
McClendon & Milligan
PO Box 828
Franklin, TN 37065-0828

CIVIL COVER SHEET

The JS 44 civil coversheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Brad Boruk

(b) County of Residence of First Listed Plaintiff Collin County, Texas
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)
Jeff Wood
103 N. Goliad, Suite 204
Rockwall, TX 75087

DEFENDANTS

Debt Recovery Solutions, LLC

County of Residence of First Listed Defendant New York

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- | | |
|--|---|
| <input type="checkbox"/> 1 U.S. Government Plaintiff | <input checked="" type="checkbox"/> 3 Federal Question
(U.S. Government Not a Party) |
| <input type="checkbox"/> 2 U.S. Government Defendant | <input type="checkbox"/> 4 Diversity
(Indicate Citizenship of Parties in Item III) |

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

Citizen of This State	PTF <input checked="" type="checkbox"/> 1	DEF <input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	PTF <input type="checkbox"/> 4	DEF <input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input checked="" type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Med. Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/ Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	SOCIAL SECURITY	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input checked="" type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/ Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
	<input type="checkbox"/> 410 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/ Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	<input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other Employment <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	<input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))
			IMMIGRATION	<input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee (Prisoner Petition) <input type="checkbox"/> 465 Other Immigration Actions

V. ORIGIN

(Place an "X" in One Box Only)

- | | | | | | |
|---|---|--|---|--|---|
| <input checked="" type="checkbox"/> 1 Original Proceeding | <input type="checkbox"/> 2 Removed from State Court | <input type="checkbox"/> 3 Remanded from Appellate Court | <input type="checkbox"/> 4 Reinstated or Reopened | <input type="checkbox"/> 5 Transferred from another district (specify) _____ | <input type="checkbox"/> 6 Multidistrict Litigation |
|---|---|--|---|--|---|

VI. CAUSE OF ACTIONCite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
15 U.S.C. sec. 1692Brief description of cause:
unlawful debt collection practices**VII. REQUESTED IN COMPLAINT:** CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23**DEMAND \$**CHECK YES only if demanded in complaint:
JURY DEMAND: Yes No**VIII. RELATED CASE(S) PENDING OR CLOSED:**

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

08/23/2013

/s/ Jeffrey D. Wood

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE